APPENDIX

Statutes and Regulations Involved

1. *Copyright Act, as amended.* Section 1(c) and (d) of the Copyright Act (17 U.S.C. § 1(c), (d) (1964)) provides as follows:

> "Any person entitled thereto, upon complying with the provisions of this title, shall have the exclusive right:
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> (c) To deliver, authorize the delivery of, read, or present the copyrighted work in public for profit if it be a lecture, sermon, address or similar production, or other nondramatic literary work; to make or procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, delivered, presented, produced, or reproduced; and to play or perform it in public for profit, and to exhibit, represent, produce, or reproduce it in any manner or by any method whatsoever. The damages for the infringement by broadcast of any work referred to in this subsection shall not exceed the sum of $100 where the infringing broadcaster shows that he was not aware that he was infringing and that such infringement could not have been reasonably foreseen; and
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> (d) To perform or represent the copyrighted work publicly if it be a drama or, if it be a dramatic work and not reproduced in copies for sale, to vend any manuscript or any record whatsoever thereof; to make or to procure the making of any transcription or record thereof by or from which, in whole or in part, it may in any manner or by any method be exhibited, performed, represented, produced, or reproduced; and to exhibit, perform, represent, produce, or reproduce it in any manner or by any method whatsoever; . . ."

2. *Communications Act of 1934, as amended.* Sections 1, 3(o), 303(c), (d), and (h), 307(b) and 325(a) (47 U.S.C. §§ 151, 153(o), 303(c), (d) and (h), 307(b) and 325(a) (1964)) provide as follows:

> Sec. 151. "For the purpose of regulating interstate and foreign commerce in communication by wire and radio so as to make available, so far as possible, to all the people of the United States a rapid, efficient, Nationwide, and world-wide wire and radio communication service with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property through the use of wire and radio communication, and for the purpose of securing a more effective execution of this policy by centralizing authority heretofore granted by law to several agencies and by granting additional authority with respect to interstate and foreign commerce in wire and radio communication, there is created a commission to be known as the 'Federal Communications Commission', which shall be constituted as hereinafter provided, and which shall execute and enforce the provisions of this chapter."
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> Sec. 153(o). " 'Broadcasting' means the dissemination of radio communication intended to be received by the public, directly or by the intermediary of relay stations."
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> Sec. 303. "Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest or necessity requires, shall . . ."
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> (c). "Assign bands of frequencies to the various classes of stations, and assign frequencies for each individual station and determine the power which each station shall use and the time during which it may operate;"
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(d). "Determine the location of classes of stations or individual stations;"

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(h). "Have authority to establish areas or zones to be served by any station."

Sec. 307(b). "In considering applications for licenses, and modifications and renewals thereof, when and insofar as there is demand for the same, the Commission shall make such distribution of licenses, frequencies, hours of operation, and of power among the several States and communities as to provide a fair, efficient, and equitable distribution of radio service to each of the same."

Sec. 325(a). "No person within the jurisdiction of the United States shall knowingly utter or transmit, or cause to be uttered or transmitted, any false or fradulent signal of distress, or communication relating thereto, nor shall any broadcasting station rebroadcast the program or any part thereof of another broadcasting station without the express authority of the originating station."

3. The regulations promulgated by the Federal Communications Commission related to CATV are set forth in 47 C.F.R. §§ 21.710-.714 (Point-to-Point Microwave Radio Service), §§ 74.1001-.1083 (Community Antenna Relay Stations), §§ 74.1101-.1109 (Community Antenna Television Systems), and §§ 91.557-.561 (Business Radio Service) (1967), *as amended,* 32 Fed. Reg. 914-16 (1967).

The pertinent provisions of the regulations as to carriage and nonduplication with respect to CATV systems generally are as follows (47 C.F.R. § 74.1103 (1967), *as amended,* 32 Fed. Reg. 914-15 (1967)):

"§ 74.1103 Requirement relating to distribution of television signals by community antenna television systems.

"No community antenna television system shall supply to its subscribers signals broadcast by one or more television stations, except in accordance with the following conditions:

"(a) *Stations required to be carried.* Within the limits of its channel capacity, any such CATV system shall carry the signals of operating or subsequently authorized and operating television broadcast and 100 watts or higher power translator stations in the following order of priority, upon the request of the licensee or permittee of the relevant station:

"(1) First, all commercial and noncommercial educational stations within whose principal community contours the system or the community of the system is located, in whole or in part;

"(2) Second, all commercial and noncommercial educational stations within whose Grade A contours the system or the community of the system is located, in whole or in part;

"(3) Third, all commercial and noncommercial educational stations within whose Grade B contours the system or the community of the system is located, in whole or in part; and

"(4) Fourth, all commercial and noncommercial educational television translator stations operating in the community of the system, in whole or in part, with 100 watts or higher power.

* * *

"(e) *Stations entitled to program exclusivity.* Any such system which operates, in whole or in part, within the Grade B or higher priority contour of any commercial or noncommercial educational television station or within the community of a fourth priority television translator station, and which carries the signal of such station shall, upon request of the station li-

censee or permittee, maintain the station's exclusivity as a program outlet against lower priority or more distant duplicating signals, but not against signals of equal priority, in the manner and to the extent specified in paragraphs (f) and (g) of this section.

"(f) *Program exclusivity; extent of protection.* Where a station is entitled to program exclusivity, the CATV system shall, upon the request of the station licensee or permittee, refrain from duplicating any program broadcast by such station, on the same day as its broadcast by the station, if the CATV operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. Upon request of the CATV system, such notice shall be given at least 8 days prior to the date of any broadcast to be deleted."

The pertinent provisions of the regulations as to carriage and nonduplication imposed as conditions in connection with licensing of microwave relay stations are exemplified by the following provisions (47 C.F.R. § 74.1033 (1967), *as amended,* 32 Fed. Reg. 914 (1967)):

"§ 74.1033. Licensing requirements.

"Authorizations (including initial grants, modifications, assignments or transfers of control, and renewals) in the Community Antenna Relay Service to construct or operate point-to-point operational fixed stations to relay television signals to community antenna television systems (CATV systems), either directly or indirectly, will contain the following conditions:

"(a) *Stations required to be carried.* Within the limits of its channel capacity, any such CATV system

shall carry the signals of operating or subsequently authorized and operating television broadcast and 100 watts or higher power translator stations in the following order of priority, upon the request of the licensee or permittee of the relevant station:

"(1) First, all commercial and noncommercial educational stations within those principal community contours the system or the community of the system is located, in whole or in part;

"(2) Second, all commercial and noncommercial educational stations within whose Grade A contours the system or the community of the system is located, in whole or in part;

"(3) Third, all commercial and noncommercial educational stations within whose Grade B contours the system or the community of the system is located, in whole or in part; and

"(4) Fourth, all commercial and noncommercial educational translator stations operating in the community of the system, in whole or in part, with 100 watts or higher power.

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"(e) *Stations entitled to program exclusivity.* Any such system which operates, in whole or in part, within the Grade B or higher priority contour of any commercial or noncommercial educational television station or within the community of a fourth priority television translator station, and which carries the signal of such station shall, upon request of the station licensee or permittee, maintain the station's exclusivity as a program outlet against lower priority or more distant duplicating signals, but not against signals of equal priority, in the manner and to the extent specified in paragraphs (f) and (g) of this section.

"(f) *Program exclusivity; extent of protection.* Where a station is entitled to program exclusivity, the CATV system shall, upon the request of the station licensee or permittee, refrain from duplicating any program broadcast by such station on the same day as its broadcast by the station, if the CATV operator has received notification from the requesting station of the date and time of its broadcast of the program and the date and time of any broadcast to be deleted, as soon as possible and in any event no later than 48 hours prior to the broadcast to be deleted. Upon request of the CATV system such notice shall be given at least 8 days prior to the date of any broadcast to be deleted."

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There are substantially identical conditions in the regulations relating to the use by CATV of Point-to-Point Microwave Radio Service and Business Radio Service (47 C.F.R. §§ 21.712 and 91.559, *as amended*, 32 Fed. Reg. 914-16 (1967)).